

EPA Region 1-New England Office: State and Tribal Issue/Priorities for the EPA Strategic Plan, Goal 1—Clean Air and Global Climate Change

1. How the information was gathered:

States: The following priorities related to the Clean Air Goal were identified by the New England State Environmental Commissioners in a March 30, 2005 letter to EPA. The issues were further refined through a conference call with EPA-Region1, the New England State Air Directors, NESCAUM, Rob Brenner and other staff from OAR. A direct solicitation was also made to the state planning/PPA contacts.

Tribes: Over the last two years, Region 1 Tribes have developed a regional tribal strategic plan. The Tribal priorities listed below were pulled from the strategic plan as well as more recent information that was gathered from the tribes by the Region 1 TOC representative.

2a. Description of key State issues/priorities:

Greenhouse Gases

The New England states have each adopted a Greenhouse Gas/Climate Change plan, and each is proceeding to implement the measures identified in its plan. The six New England states are actively engaged in implementing the Conference of New England Governors and Eastern Canadian Premiers (NEG/ECP) Climate Change Action Plan, which contains regional GHG reduction targets for 2010 and 2020 for the region.

Federal support is requested by our states in the following areas:

- Development of region-wide, common educational and informational materials on greenhouse gases and climate protection.
- Additional federal support for programs reducing GHG emissions from the transportation sector using advanced technology vehicles.
- Federal efforts to develop and use a suite of analytical tools for calculating GHG emission reductions and benefits thereof.
- Establishment of a federal GHG registry and mandated GHG reporting.
- Federal funds to support state and regional efforts to involve urban municipalities in climate control actions, such as development of municipal climate action plans.

These issues could effect strategic target levels for Objective 1.5 or the creation of new Strategic Targets for Objective 1.5 as well as new approaches for the Means and Strategies Section.

Mercury

The New England states, through NEG/ECP and state actions, are playing a national leadership role in mercury reduction. They are working towards the ambitious goal of achieving regional mercury reduction of 75% by 2010.

Federal support is requested by our states in the following areas:

- Propose mercury rules at the federal level that are similar to ones adopted in Region 1 states.
- Continue and expand efforts to eliminate mercury use in schools and health care settings.
- Identify and promote alternatives to various mercury-containing products
- Ensure stable funding, with increases as possible, for long term monitoring efforts including the Mercury Deposition Network and fish tissue monitoring.
- Improve mercury emissions data for industrial, home heating, institutional and biomass boilers; sewage sludge incinerators, landfills, mobile sources, products and other suspected sources to assist with exploration of further emission reductions.

These issues would be relevant to the Strategic Targets in Sub-Objective 1.1.2 as well as the Means and Strategies section.

PM_{2.5}/Diesel

The New England states would like to see EPA revise NAAQS for PM_{2.5} by 2006 to better reflect the current science and health studies.

Federal support is requested by our states in the following areas:

- Support research into the underlying chemical transformation of secondary organics into fine particles and incorporate into accepted models to better characterize emission reduction requirements.
- Update and improve PM_{2.5} emission factors.
- Update NSPS for woodstoves to reflect control capability of new technology and remove exemption for outdoor wood-fired boilers
- Develop and implement a strategy to ensure expeditious chip reflash in non-compliant heavy-duty diesel vehicles.
- Support the Northeast Diesel Collaborative to maximize and leverage federal funding and programs to retrofit the existing fleet of on and off-road heavy diesel engines.
- Support regional 500 ppm sulfur heating oil requirements beginning in July 2007.
- Work with states on securing long-term changes in the PM_{2.5} ambient monitoring requirements that would allow for the use of continuous monitors in lieu of the current FRM methodology.

A Revised NAAQS Standard for PM 2.5 would effect Strategic Targets for Sub-Objective 1.1.1. Other issues could also be captured by revised Strategic Targets or covered in the Means and Strategies section.

Interstate Transport of Air Pollution

Upwind states that contribute to the New England state's air quality problems need to take aggressive actions to control their emissions. It is also important that there be no backsliding relative to emissions requirements that may increase pollution being transported into the region and that the authorities that states currently have to address the issue of air pollution transport are preserved.

Federal support is requested by our states for the following areas:

- Retaining States ability to address transport into their borders through preservation of Section 126 and NSR provisions.
- Implementation of control measures in upwind states through NO_x RACT, VOC RACT, RACM and BACT.
- Continued prosecution of NSR power plant cases.
- Preservation of state's rights under CAA section 177 to adopt California Low Emission Vehicle (LEV) standards.
- Secure aircraft emission reductions and airport ground equipment emission reductions.

These issues could effect Strategic Targets for Objective 1.1 as well as the Means and Strategies section.

Integration of P2 into all goals:

A key issue raised by the states' Pollution Prevention (P2) staff is the need to integrate P2 throughout all of EPA's programs, and not just have it be the responsibility of one or two offices. To accomplish this, we recommend that P2 be explicitly addressed as appropriate in each of the Strategic Plan Goals. In addition, or alternatively, P2 could be made a Cross-Goal Strategy. In either case, it is critical that pollution prevention become part of program offices' objectives and be realized through quantifiable targets as much as possible.

2b. Description of key Tribal issues/priorities:

1. Assessing contamination from toxic aerial deposition in subsistence foods and traditional medicines.
2. Air monitoring- in areas of special interest to the tribes.
3. Assessing indoor air quality; remediation of indoor air quality problems.
4. Radon assessment and mitigation.

These Issues are relevant to Objectives 1.1 through 1.6. New or revised strategic targets or new language with a tribal emphasis could address these issues.

EPA Region 1-New England Office: State and Tribal Issue/Priorities for the EPA Strategic Plan, Goal 2 Clean and Healthy Water

1. How information was gathered. This information was gathered from reviewing and discussing the New England State Commissioners' comments on the Office of Water's 2006 Program Guidance and from a recent conference call with our states and HQ. We also based this summary on our performance partnership negotiations/discussions, as well as specific programmatic meetings held between the Region and our states. Lastly, a direct solicitation for state comments was made to each State Planning/PPA Staff lead.

Over the last two years, Region 1 Tribes have developed a regional tribal strategic plan. The Tribal priorities listed below were pulled from the strategic plan as well as more recent information that was gathered from the Tribes by the Region 1 TOC representative.

2. Description of key state issues/priorities.

Lack of Adequate EPA Funding to Cover Increased Reporting Burden: The biggest, overarching issue for our states is inadequate EPA funding. The states believe that the increasing number of new requirements and additional reporting is not commensurate with the level of EPA funding. In developing the revised strategic plan, EPA should not increase the number of outcome or output measures. EPA should try to consolidate and reduce the reporting burden on the states. For example, EPA should ensure PART measures, PAMs, and strategic outcome measures are aligned and coordinated to minimize the burden on our states.

Drinking Water Programs: Safe Drinking Water Act programmatic funding for states and EPA technical assistance has remained essentially level, while the workload has significantly increased with a significant influx of new rules. EPA should re-evaluate the pace and implementation schedule of these new rules if it is unable to provide states and regions more resources to implement them. Without more resources, it is questionable whether existing results can be maintained and new requirements can be met. These issues would have direct relevance to Sub-objective 2.1.1 and, if not addressed, may require lowering strategic targets.

Monitoring: The New England States have some concerns related to monitoring. First, the states believe that increased funding is essential to implement comprehensive monitoring strategies and support 106 supplemental funds for monitoring. EPA should continue to work closely with the states to determine the 106 funding formula for the base and increases for monitoring, especially if it is to be directed to supporting national probabilistic monitoring programs. The states are concerned that there will not be any

funds left over to support their strategies if all the funds go towards the national monitoring program. Lastly, states would like continued regional and HQ technical support for STORET and the assessment database (ADB), especially prior to EPA making these data systems binding requirements. The states support speedy development and implementation of the CDX to facilitate STORET data uploading. Although monitoring supports all Strategic Targets for goal 2, this issue is primarily addressed in the means and strategies section and in the resulting annual PAMs.

TMDLs: The New England states have insufficient resources to complete all TMDLs within a 13-year time frame. Furthermore, our states would like formal credit (e.g., in determining annual TMDL targets, in funding allocations, etc.) for implementing TMDLs and other water quality control strategies (category 4(b) control measures). EPA should look for new measures to give credit for water quality control plans and implementation activities, in addition to providing technical and monetary assistance for TMDL development. The issue of EP&M assistance to states needs to be resolved. The program activity measures and targets should be examined holistically to more effectively link the water quality program to our strategic goals and Objective 2.2.

Integrated Report Guidance [303(d) & 305(b)]: States believe that the integrated report guidance requires further amendment because it requires not only the list, but also many of the previous reporting elements. States have also historically had issues with 4(b) off-ramping portions of the guidance. Although HQ has made some changes to this portion of the guidance, states believe the approval threshold for 4(b) remains too high. When measuring performance, states would like EPA to give credit for completing TMDLs as well as moving water bodies into category 4(b). This would have direct relevance to the Strategic Targets we set under Objective 2.2.

NPDES: The guidance requires that states and EPA maintain an NPDES backlog of 10% for all sources and a 5% backlog for environmentally significant sources. The states will not be able to achieve the 10% goal under any circumstances. Furthermore, states believe that the 10% overall backlog target impedes progress on the more important target for environmentally significant permits. States would also like to see more flexibility in the definition of priority permits (e.g., to include important permit modifications for nutrients, etc.). This issue could effect Strategic Targets in Objective 2.2 but may be more relevant for the Means and Strategies section and the resulting annual PAMs.

Nonpoint Source (NPS) and Watershed Program Activity Measures: Our states have identified issues with some of the nonpoint source measures in the national guidance. One of the measures asks for the # of water bodies identified by states as being primarily NPS-impaired that are partially or fully restored. The states believe that this is not a good measure since it will take a long time to demonstrate actual progress. Another measure requests the number and dollar value of nonpoint source projects financed with clean water SRF loans. The states believe that there is currently not enough funding. States believe that some of the watershed planning measures define the bar too high (e.g., # of watershed plans substantially complete), and consequently we will not be able to show much progress. Lastly, states feel strongly that improvements to the GRTS tracking system (e.g., immediate upgrade to the server and timely transition to the Oracle-based system) are necessary to effectively track progress in the nonpoint source program. This issue is directly relevant to the Strategic Targets in Objective 2.2, and Sub-Objective 2.2.1.

3. Description of key EPA New England issues.

Overall, EPA New England agrees with the state issues listed above. We have three additional issues for your consideration.

Watershed Outcome Measures: Our states have not focused much on the watershed outcome measures (2.2.1.a and b, measure L). As you know the watershed outcome measures use an 8-digit HUC scale which is too large. We will not be able to demonstrate much progress for the foreseeable future. In addition, HQ is asking the regions and states to increase their efforts to show progress on a water body (segment) scale but there are no additional resources to support this effort. States will not be able to commit to an increased effort on watersheds without a disinvestment elsewhere. If we are able to make any progress, it will be modest at best over the next several years. Region 1 believes that we should re-evaluate the watershed outcome measures and measure L to design measures that show incremental progress (such as partial restoration). In addition, EPA should consider using an alternative measure or indicator in lieu of measure 2.2.1a and b.

Pollution Prevention: A key issue raised by states is the need to integrate pollution prevention (P2) throughout all of EPA's programs, and not just have it be the responsibility of one or two offices. To accomplish this, we recommend that P2 be explicitly addressed as appropriate in each of the Strategic Plan Goals. In addition, or alternatively, P2 could be made a Cross-Goal Strategy. In either case, it is critical that pollution prevention become part of program offices' objectives and be realized through quantifiable targets as much as possible.

Wetlands and Oceans: EPA New England suggests that the strategic plan consolidate all water objectives and subobjectives into Goal 2 as opposed to splitting them between Goals 2 and 4. In the region, we coordinate planning and implementation of the water programs as a whole. It may be more efficient to consolidate all water subobjectives in Goal 2.

4. Description of key Tribal priorities.

- ***Monitoring:*** Monitoring and data gathering and analysis, including contamination of subsistence foods and traditional medicines from water quality problems.
- ***Nonpoint Source Pollution:*** Education and outreach to tribal members and partners and best management practices to control and reduce nonpoint source pollution.
- ***Wetlands:*** Delineation, monitoring, protection and remediation.
- ***Point Source pollution:*** Water quality standards, TMDLs, NPDES permits.

Addressing these Tribal issues could require revision of Strategic Targets for Objectives 2.1 and 2.2 and potentially adding more tribal specific language to the means and strategies section.

EPA Region 1-New England Office: State and Tribal Issues/Priorities
GOAL 3: Land Preservation and Restoration

1. How information was gathered: The state and Tribal Issues were gathered through multiple channels including: State/EPA Staff meetings, PPA negotiations, Interstate meeting, EPA New England's Annual Enforcement and Compliance Planning Meeting and a direct solicitation to the State Planning/PPA contacts. Also, over the last two years, Region 1 tribes have developed a regional tribal strategic plan, which was used along with review of more recent information that was gathered from the tribes by the Region 1 Tribal TOC representative.

2a. Description of key state issues/priorities:

Functional Equivalency

EPA's implementation of RCRA authorization has entailed a lengthy process of conducting a line-by-line checklist review that compares state and federal hazardous waste regulations. This practice has created barriers for capable states that enact regulations that are not identical to EPA's program, but which provide equivalent (if not better) levels of public health and environmental protection. This approach to authorization has resulted in significant resource expenditures by both state offices and EPA for protracted discussions that result in little or no environmental value protection value. For example, since the Massachusetts hazardous waste program received base RCRA program authorization in 1985, a continuing series of disputes between the agencies about whether the Massachusetts program was indeed "equivalent" to the federal program have significantly limited the pace at which the Massachusetts program can obtain authorization.

EPA has officially issued guidance for determining when a state program is "functionally equivalent" to the federal program. This guidance is expected to allow states and EPA to focus their resources on resolving issues of significant environmental concern, rather than on discussions about less significant program details. This new guidance needs to be implemented expeditiously, and make its flexibility available to all states in EPA's authorization reviews of state programs.

This issue is relevant to Sub-Objective 3.1.2. To address could require revising a strategic target or adding language to the Means and Strategies Section.

Integration of P2 into all goals:

A key issue raised by the states' Pollution Prevention (P2) staff is the need to integrate P2 throughout all of EPA's programs, and not just have it be the responsibility of one or two offices. To accomplish this, we recommend that P2 be explicitly addressed as appropriate in each of the Strategic Plan Goals. In addition, or alternatively, P2 could be made a Cross-Goal Strategy. In either case, it is critical that pollution prevention become part of program offices' objectives and be realized through quantifiable targets as much as possible.

2b. Description of key Tribal issues/priorities

1. Spill prevention and emergency response.
2. Operation of solid waste and recycling programs.
3. Prevention of illegal open dumping.

These issues are related to Sub-Objectives 3.1.1, 3.1.2 and 3.1.2. Addressing them could require development of new strategic targets or additional language with a Tribal Emphasis in the means and strategies section.

EPA Region 1-State and Tribal Issues/Priorities for Goal 4 Healthy Communities

1. How the information was gathered: This information was gathered through multiple channels including: State and Regional staff meetings; PPA negotiations, discussions with the North East Waste Management Officials Organization (NEWMOA), and a direct solicitation to the State Planning/PPA Contacts. Also, over the last two years, Region 1 tribes have developed a regional tribal strategic plan, which was used along with review of more recent information that was gathered from the tribes by the Region 1 Tribal TOC representative.

2a. Description of key State issues:

4.1.1 Pesticide Program and 4.1.3 Toxics Programs

Issue - STAG funding for state pesticide and toxic programs have remained level funded at best and some program areas are experiencing reductions with increased program needs.

There are insufficient resources to manage the core state pesticides and toxics programs. State program resources for lead, asbestos and pesticides have been flat or on the decline over the past five years, yet annual state program costs (eg. salary, benefits, etc.) continue to rise. States are at risk for maintaining core infrastructure and activities across pesticide and toxics programs. It is virtually impossible to respond to the growing public concern and actual risks associated with asbestos in schools. Addressing this issue could require revision of Strategic Targets for 4.1.1 as well as additional language in the means and strategies section.

Issue - PART process excludes state involvement.

The PART process has been managed by EPA HQ and has not involved state programs but has tremendous impacts on resource decisions and new requirements. This is especially significant with regards to the development of new measures to gauge program effectiveness. States are concerned about the results of the PART process for pesticides and toxics programs and some would like to have the opportunity to provide input into these reviews. Greater alignment between PART measures and Strategic Targets (that are more heavily vetted with states) would be a good first step.

4.2.1 Smart Growth

Issue – States would like to get “credit” for smart growth practices.

States could benefit from a workplan modeled after HQ's strategy to support practices to reduce environmental impacts of development. The use of smart growth techniques can help communities maintain pollutant loads established by a TMDL, and minimize pollution impacts caused by development in a watershed; they also contribute to improving air quality by reducing automobile dependency and congestion, and in turn, ozone-forming emissions. States would like appropriate credit against EPA obligations,

perhaps in SIPs and TMDLs. Addressing this issue could require revision of Strategic Targets for 4.2.1 as well as additional language in the means and strategies section.

4.2.2. Environmental Justice – no issues from the states

4.2.3 Brownfields - Continue review, award and management of assessment, cleanup, RLF and job training grants. Issue – States very supportive of program; some states concerned with sufficient, continued funding.

Integration of P2 into all goals - A key issue raised by the states' Pollution Prevention (P2) staff is the need to integrate P2 throughout all of EPA's programs, and not just have it be the responsibility of one or two offices. To accomplish this, we recommend that P2 be explicitly addressed as appropriate in each of the Strategic Plan Goals. In addition, or alternatively, P2 could be made a Cross-Goal Strategy. In either case, it is critical that pollution prevention become part of program offices' objectives and be realized through quantifiable targets as much as possible.

2b. Description of key Tribal issues:

Lead- Inspection, remediation, outreach and education.

Evaluate contaminant concentrations in natural resources used by the tribes for food, medicine, and spiritual purposes.

Baseline assessment of risks on tribal lands.

Addressing these issues could require revision of the strategic Targets and additional Tribal specific language in the “Means and Strategies” section for Goal 4.

EPA New England State & Tribal Issues/Priorities for Goal 5

1. How information was gathered:

States: At the September 14, 2005 Quarterly Meeting of the New England State/EPA Enforcement and Compliance Committee, New England states received copies of the solicitation email from Kathy O'Brien and were urged to review and to give comments; similarly urged to participate in any New England Interstate meetings on this topic; and finally, urged to participate in an information call being hosted by the EPA New England Deputy Regional Administrator's Office. Additionally, some topics were discussed at meetings with FOSTTA (a state and tribal advisory committee to OPPTS) and the National Pollution Prevention and the Toxics Advisory Committee (NPPTAC), a FACA group that includes state representation, as well as industry and NGOs.

Tribal: Over the last two years, Region 1 tribes have developed a regional tribal strategic plan, which was used along with review of more recent information that was gathered from the tribes by the Region 1 Tribal TOC representative.

2a. Summary of key State issues/priorities:

Issue 1: Grant flexibility to use alternative compliance approaches:

EPA's requirements for the use of federal RCRA funds focuses on site-specific inspections of facilities that generate, treat, store and/or dispose of large quantities of hazardous waste. This approach has remained essentially unchanged since the dawn of the RCRA program in the late 1970's, and federal funding levels have remained nominally level over the last decade. Similarly, EPA specifies the frequency with which "major" facilities in other media programs (air, drinking water, NPDES dischargers) should be inspected. Over the last several years, one New England state has found consistently that, while government oversight is still required for these facilities, firms that generate small and moderate quantities of hazardous waste, and air & water pollution, have many more serious compliance problems, and are more likely to pose a significant risk of harm to public health and the environment. This state urges EPA to embrace the use of risk-based and environmental results-based alternative approaches to ensure that polluters of all sizes are minimizing impacts and potential impacts on the environment and complying with regulatory requirements. This should include explicit recognition of state approaches that produce documentable environmental results, such as the Massachusetts Environmental Results Program (ERP). Recognition should take the form of allowing reduced levels of inspections for major facilities and explicit credit for approaches that focus compliance efforts on generators of smaller volumes of waste/pollution.

Potential impact of alternative compliance approaches: Adopting this recommendation necessitates changes in Goal 5 and program targets, means, and strategies.

Prevalence for alternative compliance approaches – A majority of our New England states have implemented ERP or ERP-like programs, with some of these funded on a pilot basis by OECA (ME – Tanks ERP, MA – ERPs for Dry Cleaners, Printers and Photo Processors, NH – RCRA Partial Compliance Inspection Program, RI - Tanks ERP, VT – Auto Body ERP). Additionally, this issue is included in the Multi-State Initiative on Common Business Sector Performance Measures, an effort coordinated by the Northeast Waste Management Officials Association (NEWMOA) for the 6 NE states and New York.

Issue 2: Recommit to institutionalize P2 across EPA:

OPPT should take steps to develop a vigorous high-level Agency leadership commitment to P2. Developing the commitment should include an Agency-wide P2 vision and a revised P2 strategy consistent with the P2 Act, as well as the institutionalization of more rigorous evaluation practices concerning P2 results. OPPT should take a management system approach to its P2 activities (e.g., Plan-Do-Check-Act). OPPT should also use this approach to work with other offices across EPA and the Regions. These efforts should ensure that P2 is incorporated into measurable environmental goals, on-going evaluation is conducted, and outcomes are used to direct future work. Implementation will require action from the Administrator and other senior Agency leaders to oversee the execution of the P2 vision and revised strategy, as well as advocate for that vision and strategy at all levels of the organization. This issue needs to be addressed beyond Goal 5 of the Agency's Strategic Plan and be fully incorporated into Goals 1 – 4.

Potential impact of institutionalizing P2 across EPA: Adopting this recommendation necessitates changes in Goal 1-5, in objectives, sub-objectives, targets, means and strategies.

Prevalence for institutionalizing P2 across EPA - 1) FOSTTA (a state and tribal advisory committee to OPPTS) expressed support for more integration at their joint meeting with the Multimedia Pollution Prevention Committee (M2P2). **2)** The National Pollution Prevention and Toxics Advisory Committee (NPPTAC) is a FACA group that includes state representation, as well as industry and NGOs. The description above is one of the recommendations from their P2 Committee to the Administrator, sent this past June. **3)** A summary of a 2004 ECOS recommendation from the *05-27-04 National Pollution Prevention Roundtable*. At their meeting in Hot Springs, Arkansas, (April 18-20), ECOS members adopted a resolution entitled 'Promotion of Pollution Prevention in Partnerships (P4).' The Resolution states: "ECOS calls on EPA to increase and enhance its efforts to promote and **institutionalize pollution prevention through** funding, research, individual environmental program implementation strategies, and in **its overall strategic plan**; and Furthermore, EPA cooperate with States, to continue to use the ECOS Cross-Media Committee, M2P2, NPPTAC, NPPR, IAC, CEI and FOSTTA to **promote pollution prevention (source reduction) guiding principles throughout all EPA programs**; and Furthermore, ECOS, in partnership with EPA, will explore and recommend enhanced strategies to reaffirm that pollution prevention is central and core to the mission and strategic goals of state, regional and national environmental protection programs."

2b: Summary of key Tribal issues and priorities:

General Assistance Program for Tribes to continue to build capacity, including solid/hazardous waste implementation.

Environmental education for Tribal members.

Pollution Prevention- Tribal operations, green buildings.

Potential impact of Tribal issues: Adopting these recommendations may necessitate changes in Goal 5 and program targets, means, and targets.

Prevalence for Tribal issues – These issues have been developed by all Tribes in New England as part of the regional Tribal Strategic Plan.